July 21, 2015

SENT VIA EMAIL

Ms. Jane Diamond
Director, Water Division
Region IX
US Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105-3901
Email: diamond.jane@Epa.gov

     Re: Request for a Meeting Regarding EPA and DOGGR's Cooperative Oversight of
             the California Aquifer Exemption Review and Current Well Operations.

Dear Ms. Diamond:

We request a meeting to discuss the cooperative oversight between the Division of Oil, Gas &
Geothermal Resources (DOGGR) and the United States Environmental Protection Agency,
Region IX (Region 9) of the Aquifer Exemption Review, as well as current well operations for
waste fluid disposal via underground injection.

Oversight of DOGGR's emergency review of its Underground Injection Control (UIC) program
includes minimum requirements and programmatic deadlines for DOGGR's (and Region 9's)
review of aquifer exemption applications and aquifer classification. During our research of the
UIC program, we have become aware of conflicting timelines with potentially binding program
deadlines regarding injection into nonexempt aquifers.

These conflicts raise several important questions. First, has EP A received any aquifer exemption
applications approved by DOGGR and th e State Water Resources Control Board (SWRCB)
(preapproved applications)? According to counsel for the Department of Conservation, DOGGR
has not received any applications as of July 15, 2015, for any category of aquifer. In light of this,
do EPA and DOGGR presuppose that no wells are currently injecting into this category of aquifer
(i.e. a nonhydrocarbon bearing aquifer with < 3,000 ppm of Total Dissolved Solids (TDS))?

The deadline for applications approved by DOGGR and SWRCB, to be submitted to Region 9,
was July 15, 2015. Is this deadline binding on applications? The date identified in the final text of
the 2015 Emergency Regulations does not indicate a deadline for aquifer exemption applications,
but instead states that injection into wells of this category of aquifer must cease by October 15,
2015, unless and until the aquifer has been exempted . If the July 15, 2015 application deadline is
binding, what are the consequent procedures or determinations for applications not submitted by
July 15, 2015?

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Title 40 part 146.4 and 144.7 of the Code of Federal Regulations, as well as a DOGGR guidance document, provide minimum requirements for applications for exemption. Are record and data requirements applied uniformly across aquifer categories? Does DOGGR use a uniform application or template for submission? If submissions have been made, what documentati on did the submission contain?

Finally, according to DOGGR's recently released "Preliminary Assessment of Eleven Aquifers Historically Treated as Exempt", ten of the eleven aquifers contain less than 3,000 ppmTDS. This indicates that – barring clear and convincing evidence of the substantial presence of hydrocarbons – these aquifers fall into Category I aquifers that 'are or could become sources of drinking water.' Will these ten (10) aquifers become subject to the October 15, 20 15 moratorium deadlines (or Region 9's July 15, 2015 deadlines)? It is noteworthy that nine of the ten aquifers either have been or are currently being injected with Class II waste fluids. Does this not meet the threshold of an emergency requiring a morato rium *prior to* DOGGR's December 31, 2016 deadline (or Region 9's November 15, 2015 deadline)?

We hope to discuss these questions and other issues regarding the UIC program and aquifer review status in California. Thank you for your attention to this matter.

Sincerely,

The ENVIRONMENTAL ACTION CENTER

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David L. Reed

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cc: Ken Kopocis, Office of Water, USEPA
       Mark Pollins, Water Enforcement Division, OCE, OECA, USEPA
       Arthur Elkins, Office of the Inspector General

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